

PART 600—GENERAL POWERS OF INDEPENDENT COUNSEL

Sec.

600.1 Authority and duties of an Independent Counsel.

600.2 Reporting and congressional oversight.

600.3 Removal of an Independent Counsel; termination of office.

600.4 Relationship with components of the Department of Justice.

600.5 Savings provision; severability.

AUTHORITY: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515, 543; Article II of the U.S. Constitution.

SOURCE: 52 FR 7271, Mar. 10, 1987, unless otherwise noted.

§600.1 Authority and duties of an Independent Counsel.

(a) An Office of Independent Counsel shall be under the direction of an Independent Counsel appointed by the Attorney General. An Independent Counsel shall have, with respect to all matters in his prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18 of the U.S. Code. Such investigative and prosecutorial functions and powers shall include—

(1) Conducting proceedings before grand juries and other investigations;

(2) Participating in court proceedings and engaging in any litigation, including civil and criminal matters, that such Independent Counsel deems necessary;

(3) Appealing any decision of a court in any case or proceeding in which such Independent Counsel participates in an official capacity;

(4) Reviewing all documentary evidence available from any source;

(5) Determining whether to contest the assertion of any testimonial privilege;

(6) Receiving appropriate national security clearances and, if necessary, contesting in court (including, where

appropriate, participating in *in camera* proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

(7) Making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18 of the U.S. Code, exercising the authority vested in a United States or the Attorney General;

(8) Inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1954, and the regulations issued thereunder, exercising the powers vested in a U.S. Attorney or the Attorney General; and

(9) Initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing information, and handling all aspects of any case in the name of the United States; and

(10) Consulting with the U.S. Attorney for the district in which the violation was alleged to have occurred.

(b) An Independent Counsel appointed under this chapter shall receive compensation at a rate not to exceed the annual or per diem rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5 of the U.S. Code. This paragraph shall not be construed to authorize the payment of any compensation in addition to that paid under subsection (b) of section 594 of title 28 of the U.S. Code.

(c) For the purposes of carrying out the duties of the Office of Independent Counsel, an Independent Counsel shall have the full power of the Attorney General to appoint (other than in the Senior Executive Service), fix the compensation and assign the duties of such employees as the Independent Counsel deems necessary. This paragraph shall not be construed to authorize the payment of any compensation in addition to that paid under subsection (c) of section 595 of title 28 of the U.S. Code.

(d) An Independent Counsel may request assistance from the Department

of Justice, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within the Independent Counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform the Independent Counsel's duties.

(e) An Independent Counsel may ask the Attorney General to refer matters related to the Independent Counsel's prosecutorial jurisdiction. An Independent Counsel may accept referral of a matter by the Attorney General, if the matter relates to a matter within the Independent Counsel's prosecutorial jurisdiction as established by this chapter. If such a referral is accepted, an Independent Counsel shall notify the division of the U.S. Court of Appeals for the District of Columbia referred to in section 49 of title 28 of the U.S. Code, if such court exists at that time.

(f) An Independent Counsel shall, except where not possible, comply with the written or other established policies of the Department of Justice respecting enforcement of the criminal laws.

(g) An Independent Counsel shall have full authority to dismiss matters within his prosecutorial jurisdiction without conducting an investigation or at any subsequent time prior to prosecution if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

[52 FR 7271, Mar. 10, 1987, as amended at 59 FR 5322, Feb. 4, 1994]

§ 600.2 Reporting and congressional oversight.

(a) An Independent Counsel appointed under this chapter may make public from time to time, and shall send to the Congress statements or reports on the activities of the Independent Counsel. These statements and reports shall contain such information as the Independent Counsel deems appropriate.

(b)(1) In addition to any reports made under paragraph (a) of this section, and before the termination of the Independent Counsel's office under this

chapter, such Independent Counsel shall submit to the division of the U.S. Court of Appeals for the District of Columbia referred to in section 49 of title 28 of the U.S. Code, if such court exists at that time, a report under this section.

(2) A report under this subsection shall set forth fully and completely a description of the work of the Independent Counsel, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of the Independent Counsel which was not prosecuted.

(3) Unless prohibited by applicable law, an Independent Counsel may release to the Congress, the public, or to any appropriate person, such portions of a report made under this subsection as he deems appropriate.

(c) An Independent Counsel shall advise the House of Representatives of any substantial and credible information which such Independent Counsel receives that may constitute grounds for an impeachment. Nothing in this chapter shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

(d) Nothing in this chapter shall prevent the appropriate committees of the Congress from exercising oversight jurisdiction with respect to the official conduct of any Independent Counsel appointed under this chapter, and such Independent Counsel shall have the duty to cooperate with the exercise of such oversight jurisdiction.

§ 600.3 Removal of an Independent Counsel; termination of office.

(a)(1) An Independent Counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for good cause, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the Independent Counsel's duties.

(2) If an Independent Counsel is removed from office, the Attorney General shall promptly submit to the division of the U.S. Court of Appeals for the District of Columbia referred to in